

REMARKS

Claims 1-30 were pending in the application. Claims 1-8 and 16-21 have been rejected under 35 U.S.C. § 102(e) as being deemed anticipated by U.S. Patent No. 7,106,833 (Kerper). Non-elected Claims 9-15 and 22-30 have been canceled as requested by the Office Action. Of the Claims, Claims 1 and 16 are independent. Claims have been amended to clarify the Applicants' invention. The application as amended and argued herein, is believed to overcome the rejections.

Regarding Rejections under 35 U.S.C. § 102(e)

Claims 1-8 and 16-21 have been rejected under 35 U.S.C. § 102(e) as being deemed anticipated by U.S. Patent No. 7,106,833 (Kerper).

Cited prior art Kerpez discusses optimizing DSL lines transmitting in the same cable on an individual basis in order to maximize the overall throughput in a cable. (*See* col. 3, lines 30 to col. 4 line 38.)

Kerpez does not teach or suggest at least:

“increasing the EMI in one or more other regions of the electromagnetic spectrum that are unoccupied by the other users.”

as claimed by the Applicant in Claim 1.

In contrast, the system discussed by Kerpez merely discusses reducing or eliminating measured EMI noise electronically or physically through the use of shielded cable. (*See*, col. 9, lines 27-45.) In contrast, Kerpez merely discusses reducing the received EMI through physical remediation (adding additional shielding to the cable) or electronic remediation (subtracting an estimate of the EMI from the received signal and noise.) (*See* col. 9, lines 27-45.)

Furthermore, Kerpez does not even teach or suggest whether the device emits EMI “in one or more regions of an electromagnetic spectrum occupied by others” as claimed by the Applicant in Claim 1. In contrast Kerpez merely discusses the reduction or elimination of any

detected EMI irrespective as to as to whether it is in one or more regions of an electromagnetic spectrum occupied by others.

Claims 2-8 are dependent claims that depend directly or indirectly on claim 1, which has been shown to be distinguished over the cited art. Independent claim 16 recites a like distinction and is thus distinguished over the cited art. Claims 17-21 depend directly or indirectly on claim 16 and are thus distinguished over the cited reference.

Accordingly, the present invention as now claimed is not believed to be anticipated by the cited reference. Removal of the rejections under 35 U.S.C. § 102(e) and acceptance of claims 1-8 and 16-21 is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that all claims (claims 1-8 and 16-21) are in condition of allowance. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-referenced application.

Please charge any shortages and credit any overcharges to Deposit Account Number 50-0221.

Respectfully submitted,

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